

AMENDED IN SENATE DECEMBER 4, 2003

AMENDED IN SENATE DECEMBER 2, 2003

CALIFORNIA LEGISLATURE—2003–04 FIFTH EXTRAORDINARY SESSION

## SENATE BILL

**No. 2**

**Introduced by Senator Ashburn**

November 24, 2003

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An act to add Title 18 (commencing with Section 99050) to the Government Code, relating to deficit recovery financing, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, *setting the bond measure for placement on the ballot*, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Ashburn. Deficit recovery bonds.

(1) Existing provisions of the California Constitution prohibit the creation by the Legislature of debts in excess of \$300,000 except for a single object or work specified in a law creating the debt, which is approved by a  $\frac{2}{3}$  vote of the members of each house of the Legislature and approved by the people by a majority of the votes cast at a general or direct primary election.

This bill would enact the California Deficit Recovery General Obligation Bond Act of 2004, which, if adopted, would authorize the issuance, pursuant to the State General Obligation Bond Law, of bonds in an amount not to exceed \$17,000,000,000 for purposes of financing the accumulated budget deficit, as defined.

The bill would provide for submission of the bond act to the voters at the March 2, 2004, statewide *primary* election. The bond act provisions would become operative only if 2 specified constitutional amendments, one relating to indebtedness for the purpose of financing the accumulated budget deficit and the other relating to the imposition of a state expenditure limit, are submitted to and approved by the voters at the March 2, 2004, statewide election.

(2) *This bill would waive the statutory deadline for placement of the California Deficit Recovery General Obligation Bond Act of 2004 on the March 2, 2004, statewide primary election ballot.*

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Title 18 (commencing with Section 99050) is  
2 added to the Government Code, to read:

3

4 TITLE 18. CALIFORNIA DEFICIT RECOVERY  
5 GENERAL OBLIGATION BOND ACT OF 2004

6

7 CHAPTER 1. GENERAL PROVISIONS

8

9 99050. (a) This title shall be known and may be cited as the  
10 California Deficit Recovery General Obligation Bond Act of  
11 2004.

12 (b) The Legislature finds and declares that it is essential to the  
13 public welfare that an efficient, equitable, and alternative source  
14 of funding be established in order to preserve public education and  
15 critical health and safety programs that otherwise could not be  
16 funded in light of the accumulated budget deficit, and that securing  
17 the availability of the proceeds of the bonds proposed to be issued  
18 and sold pursuant to this title is the most efficient, equitable, and  
19 economical means available.

20 99051. As used in this title, the following terms have the  
21 following meanings:

22 (a) (1) “Accumulated budget deficit” means the aggregate of  
23 both of the following amounts:

(A) The estimated negative balance of the Special Fund for Economic Uncertainties as of June 30, 2004, excluding the effect of the estimated or actual amount of net proceeds of any bonds issued and to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000)), and any bonds issued and to be issued pursuant to this title.

(B) Other deferred General Fund obligations incurred by the state prior to June 30, 2004, to the extent not included in that estimated negative balance.

(2) Each of the amounts referred to in paragraph (1) shall be as certified by the Director of Finance. However, the accumulated budget deficit, as defined by this subdivision, may not exceed fifteen billion dollars (\$15,000,000,000).

(b) “Committee” means the California Deficit Recovery Financing Committee created pursuant to Section 99055.

(c) “Fund” means the Deficit Recovery Fund created pursuant to Section 99060.

## CHAPTER 2. CALIFORNIA DEFICIT RECOVERY FINANCING COMMITTEE

99055. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law of the bonds authorized by this title and the making of those determinations and the taking of other actions as are authorized by this title, the California Deficit Recovery Financing Committee is hereby created. For purposes of this title, the California Deficit Recovery Financing Committee is “the committee” as that term is used in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2).

(b) The committee consists of all of the following members or their designated representatives:

- (1) The Governor.
- (2) The Director of Finance.
- (3) The Treasurer.
- (4) The Controller.
- (5) The Secretary of Business, Transportation and Housing.
- (6) The Director of General Services.
- (7) The Director of Transportation.

1 (c) The Legislature finds and declares that each member of the  
2 committee has previously acted as a member of a finance  
3 committee that issues general obligation bonds.

4 (d) A majority of the members of the committee shall constitute  
5 a quorum of the committee and may act for the committee.

6 (e) The Director of Finance shall serve as chairperson of the  
7 committee.

8  
9 CHAPTER 3. DEFICIT RECOVERY FUND

10  
11 99060. (a) The proceeds of bonds issued and sold pursuant to  
12 this title shall be deposited in the Deficit Recovery Fund, which is  
13 hereby established in the State Treasury.

14 (b) Moneys in the fund shall be invested in the Surplus Money  
15 Investment Fund, and any income from that investment shall be  
16 credited to the fund.

17 (c) Except for amounts necessary to pay costs of issuance,  
18 administrative costs, and any other costs payable in connection  
19 with the bonds, and to retire or refund bonds issued and sold  
20 pursuant to this title or bonds issued and sold under Title 17  
21 (commencing with Section 99000), as these amounts are  
22 determined by the committee, the remaining balance of the fund  
23 shall be transferred to the General Fund to fund the purposes set  
24 forth in this title.

25  
26 CHAPTER 4. BOND PROVISIONS

27  
28 99065. (a) Bonds in the total amount of seventeen billion  
29 dollars (\$17,000,000,000), not including the amount of any  
30 refunding bonds issued in accordance with Section 99075, or so  
31 much thereof as is necessary, may be issued and sold to provide a  
32 fund to be used for carrying out the purposes expressed in this title  
33 and to reimburse the General Obligation Bond Expense Revolving  
34 Fund, pursuant to Section 16724.5. The bonds, when sold, shall be  
35 and constitute a valid and binding obligation of the State of  
36 California, and the full faith and credit of the State of California  
37 is hereby pledged for the punctual payment of both principal of,  
38 and interest on, the bonds as the principal and interest become due  
39 and payable. Out of the first money realized from the sale of bonds  
40 as provided in this chapter, there shall be redeposited in the

General Obligation Bond Expense Revolving Fund, established by Section 16724.5, the amount of all expenditures made for purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the committee. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 and Section 99070. Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value. Notwithstanding Section 16754.3, the discount with respect to any issue of the bonds shall not exceed 3 percent of the par value thereof, net of any premium.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of providing an efficient, equitable, and economical means of doing both of the following:

(1) Funding the accumulated budget deficit, which may be accomplished in part by refunding or repaying bonds issued pursuant to Title 17 (commencing with Section 99000).

(2) Paying related costs, including costs of issuance and other costs relating to bonds issued pursuant to this title, costs associated with the repayment or refunding of the fiscal recovery bonds issued pursuant to Title 17 (commencing with Section 99000), and administrative and other costs associated with implementing the purposes of this title.

99066. The bonds authorized by this title shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), and all of the provisions of that law, except subdivisions (a) and (b) of Section 16727 or any other provision in that law that is inconsistent with the terms of this title, apply to the bonds and to this title and are hereby incorporated in this title as though set forth in full in this title.

99067. For purposes of this title, the Department of Finance is designated the “board” as that term is used in the State General Obligation Bond Law.

99068. Upon the request of the board, the Pooled Money Investment Board shall provide a loan from the Pooled Money

1 Investment Account or other authorized forms of interim  
2 financing, including, but not limited to, commercial paper, in  
3 accordance with Section 16312, for the purpose of carrying out  
4 this title. The amount of the request shall not exceed the amount  
5 of the unsold bonds that the committee has, by resolution,  
6 authorized to be sold for the purpose of carrying out this title. The  
7 board shall execute any documents required by the Pooled Money  
8 Investment Board to obtain and repay the loan. Any amounts  
9 loaned shall be deposited in the fund.

10 99069. Notwithstanding any other provision of this title, or of  
11 the State General Obligation Bond Law, if the Treasurer sells  
12 bonds pursuant to this title that include a bond counsel opinion to  
13 the effect that the interest on the bonds is excluded from gross  
14 income for federal tax purposes subject to designated conditions,  
15 the Treasurer may maintain separate accounts for the bond  
16 proceeds invested and for the investment earnings on those  
17 proceeds, and may use or direct the use of those proceeds or  
18 earnings to pay any rebate, penalty, or other payment required  
19 under federal law or take any other action with respect to the  
20 investment and use of those bond proceeds that is required or  
21 desirable under federal law in order to maintain the tax-exempt  
22 status of those bonds and to obtain any other advantage under  
23 federal law on behalf of the funds of this state.

24 99070. (a) (1) The committee shall determine whether or  
25 not it is necessary or desirable to issue bonds authorized pursuant  
26 to this title in order to carry out the purposes of this title and, if so,  
27 the amount of bonds to be issued and sold, the times at which the  
28 proceeds of the bonds authorized by this title shall be required to  
29 be available, and those other terms and conditions for the bonds  
30 authorized by this title as it shall determine necessary or desirable.

31 (2) The committee shall determine the amount of the bonds to  
32 be issued so that the net proceeds of the bonds issued to fund the  
33 accumulated budget deficit, when added to the net proceeds of any  
34 bonds issued pursuant to Title 17 (commencing with Section  
35 99000) for that purpose, exclusive of bonds issued pursuant to this  
36 title for the purpose of refunding bonds issued pursuant to this title  
37 or Title 17 (commencing with Section 99000), will not exceed  
38 \$15,000,000,000 in the aggregate. Nothing in this section shall be  
39 construed to limit the ability of the committee to authorize the  
40 issuance of any amount of bonds that it shall determine necessary

1 or appropriate to accomplish the purposes of this title, including  
2 the refunding or redemption of the bonds issued pursuant to Title  
3 17 (commencing with Section 99000), subject to the limit on the  
4 total amount of bonds set forth in Section 99065.

5 (b) Successive issues of bonds may be authorized and sold to  
6 carry out those actions progressively, and it is not necessary that  
7 all of the bonds authorized to be issued be sold at any one time. In  
8 addition to all other powers specifically granted in this title and the  
9 State General Obligation Bond Law, the committee may do all  
10 things necessary or convenient, including the delegation of  
11 necessary duties to the Director of Finance, as chairperson, and to  
12 the Treasurer, as agent for sale of the bonds, to carry out the powers  
13 and purposes of this title.

14 99071. There shall be collected each year and in the same  
15 manner and at the same time as other state revenue is collected, in  
16 addition to the ordinary revenues of the state, a sum in an amount  
17 required to pay the principal of, and interest on, the bonds for  
18 which payment is authorized by this title. It is the duty of all  
19 officers charged by law with any duty in regard to the collection  
20 of the revenue to do and perform each and every act that is  
21 necessary to collect that additional sum.

22 99072. Notwithstanding Section 13340, there is hereby  
23 appropriated from the General Fund in the State Treasury, for the  
24 purposes of this chapter, an amount that will equal the total of the  
25 following:

26 (a) The sum annually necessary to pay the principal of, and  
27 interest on, bonds issued and sold as described in Section 99070,  
28 as the principal and interest become due and payable.

29 (b) The sum necessary to carry out Section 99073, appropriated  
30 without regard to fiscal years.

31 99073. For the purposes of carrying out this chapter, the  
32 Director of Finance may authorize the withdrawal from the  
33 General Fund of an amount not to exceed the amount of the unsold  
34 bonds that have been authorized by the committee to be sold for  
35 the purpose of carrying out this chapter. Any amounts withdrawn  
36 shall be deposited in the fund. Any money made available under  
37 this section shall be returned to the General Fund from proceeds  
38 received from the sale of bonds for the purpose of carrying out this  
39 chapter.



1 99074. All money deposited in the fund that is derived from  
2 accrued interest on bonds sold shall be reserved in the fund and  
3 shall be available for transfer to the General Fund as a credit to  
4 expenditures for bond interest.

5 99075. The bonds may be refunded in accordance with  
6 Article 6 (commencing with Section 16780) of Chapter 4 of Part  
7 3 of Division 4 of Title 2, which is a part of the State General  
8 Obligation Bond Law. Approval by the electors of the state for the  
9 issuance of the bonds described in this title shall include approval  
10 of the issuance of any bonds issued to refund any bonds originally  
11 issued under this title or any previously issued refunding bonds.

12 99076. The Legislature hereby finds and declares that,  
13 inasmuch as the proceeds from the sale of bonds authorized by this  
14 title are not “proceeds of taxes” as that term is used in Article  
15 XIII B of the California Constitution, the disbursement of these  
16 proceeds is not subject to the limitations imposed by that article.

17 99077. (a) Any action brought to enforce any provision of  
18 this title, or any action challenging or contesting the validity of any  
19 act or determination made or taken pursuant to this title, shall be  
20 brought in the Superior Court in the County of Sacramento and  
21 shall have priority over civil matters not themselves having  
22 priority.

23 (b) Notwithstanding any other provision of law, the exclusive  
24 means to obtain review of a superior court judgment entered in an  
25 action brought pursuant to Chapter 9 (commencing with Section  
26 860) of Title 10 of Part 2 of the Code of Civil Procedure to  
27 determine the validity of any bonds to be issued, or ancillary  
28 obligations or other contracts to be entered into, under this title  
29 shall be by petition to the Supreme Court for writ of review. Any  
30 petition shall be filed within 15 days following the notice of entry  
31 of the superior court judgment, and no extension of that period  
32 may be allowed. If no petition is filed within the time allowed  
33 therefor, or the petition is denied, with or without opinion, the  
34 decision of the superior court shall be final and enforceable as  
35 provided in subdivision (a) of Section 870 of the Code of Civil  
36 Procedure. In any case in which a petition has been filed within the  
37 time allowed therefor, the Supreme Court shall make any orders  
38 it deems proper in the circumstances. If no answering party  
39 appeared in the superior court action, the only issues that may be



1 raised in the petition are those related to the jurisdiction of the  
2 superior court.

3 SEC. 2. Subject to Section 6 of this act, Section 1 of this act  
4 shall take effect upon the adoption by the voters of the California  
5 Deficit Recovery General Obligation Bond Act of 2004, as set  
6 forth in Section 1 of this act.

7 SEC. 3. (a) Notwithstanding the requirements of Sections  
8 9040, 9043, 9044, 9061, and 9082 of the Elections Code or any  
9 other provision of law, the Secretary of State shall submit Section  
10 1 of this act to the voters at the March 2, 2004, statewide *primary*  
11 election.

12 (b) Notwithstanding Section 13115 of the Elections Code,  
13 Section 1 of this act and any other measure placed on the ballot by  
14 the Legislature for the March 2, 2004, statewide *primary* election  
15 after the 131-day deadline set forth in Section 9040 of the  
16 Elections Code shall be placed on the ballot, following all other  
17 ballot measures, in the order in which they qualified as determined  
18 by chapter number.

19 (c) The Secretary of State shall include, in the ballot pamphlets  
20 mailed pursuant to Section 9094 of the Elections Code, the  
21 information specified in Section 9084 of the Elections Code  
22 regarding the bond act contained in Section 1 of this act. If that  
23 inclusion is not possible, the Secretary of State shall publish a  
24 supplemental ballot pamphlet regarding this act to be mailed with  
25 the ballot pamphlet. If the supplemental ballot pamphlet cannot be  
26 mailed with the ballot pamphlet, the supplemental ballot pamphlet  
27 shall be mailed separately.

28 (d) *Notwithstanding Section 13282 of the Elections Code, the*  
29 *public shall be permitted to examine the condensed statement of*  
30 *the ballot title for not more than 8 days. Any voter may seek a writ*  
31 *of mandate for the purpose of requiring any statement of the ballot*  
32 *title, or portion thereof, to be amended or deleted only within that*  
33 *8-day period.*

34 (e) *Notwithstanding any other provision of law, the Legislative*  
35 *Analyst is not required to submit his or her analysis of a ballot*  
36 *measure that must appear in a supplemental ballot pamphlet for*  
37 *the March 2, 2004 primary election to a committee for review.*

38 SEC. 4. (a) Notwithstanding any other provision of law, all  
39 ballots of the March 2, 2004, statewide *primary* election shall have  
40 printed thereon and in a square thereof, the words “California

1 Deficit Recovery General Obligation Bond Act of 2004,” and in  
2 the same square under those words, the following in 8-point type:

3  
4 “This act provides for a bond issue of an amount not to  
5 exceed seventeen billion dollars (\$17,000,000,000) for the  
6 financing of the accumulated budget deficit.”  
7

8 Opposite the square, there shall be left spaces in which the  
9 voters may place a cross in the manner required by law to indicate  
10 whether they vote for or against the act.

11 (b) *Notwithstanding Sections 13247 and 13281 of the Elections*  
12 *Code, the language in Section 1 shall be the only language*  
13 *included in the ballot label for the condensed statement of the*  
14 *ballot title, and the Attorney General shall not supplement,*  
15 *subtract from, or revise that language, except that the Attorney*  
16 *General may include the financial impact summary prepared*  
17 *pursuant to Section 9087 of the Elections Code and Section 88003*  
18 *of the Government Code. The ballot label is the condensed*  
19 *statement of the ballot title and the financial impact summary.*

20 (c) Where voting in the election is done by means of voting  
21 machines used pursuant to law in a manner that carries out the  
22 intent of this section, the use of the voting machines and the  
23 expression of the voters’ choice by means thereof are in  
24 compliance with this section.

25 SEC. 5. If any provision of this act or application thereof is  
26 held to be invalid, that invalidity shall not affect other provisions  
27 or applications that can be given effect without the invalid  
28 provisions or applications, and to this end the provisions of this act  
29 are severable.

30 SEC. 6. Section 1 of this act shall become operative only if  
31 both of the following occur:

32 (a) A constitutional amendment, specifying that bonds or other  
33 indebtedness in excess of three hundred thousand dollars  
34 (\$300,000) may be issued by the state pursuant to Section 1 of  
35 Article XVI of the California Constitution for the purpose of  
36 financing the accumulated budget deficit, is submitted to and  
37 approved by the voters at the March 2, 2004, statewide *primary*  
38 election.

1 (b) A constitutional amendment containing provisions  
2 imposing a state expenditure limit is submitted to and approved by  
3 the voters at the March 2, 2004, statewide *primary* election.

4 SEC. 7. This act is an urgency statute necessary for the  
5 immediate preservation of the public peace, health, or safety  
6 within the meaning of Article IV of the Constitution and shall go  
7 into immediate effect. The facts constituting the necessity are:

8 In order to provide funds necessary to reduce the accumulated  
9 budget deficit, it is necessary that this act take effect immediately.

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